



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

DEC 14 2017

Charles Denny
Duke Energy Corporation
410 South Wilmington Street, NC15
Raleigh, NC 27601

Reference No. 17-0068

Dear Mr. Denny:

This letter is in response to your June 21, 2017, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the packaging and hazard communication requirements for asbestos. You indicate it is common practice to put friable asbestos in non-bulk, non-rigid bags and place them in containers. Specifically, with respect to § 173.216, you ask whether the HMR require marking and labeling of these non-bulk, non-rigid bags or the solely the container (i.e., the outer packaging) into which the bags are placed.

According to § 173.216(c)(2) and (3), non-rigid bags of asbestos must be packaged inside a rigid outer packaging, closed freight container, motor vehicle, or rail car. The hazard communication requirements apply to the completed package. That is, the inner bags are not subject to hazard communication requirements, but the rigid outer packaging, closed freight container, motor vehicle, or rail car is, similar to how the inner packagings of a combination packaging are not subject to hazard communication requirements.

The manner of hazardous communication is dependent on the completed package. For example, if the asbestos bags are placed inside a rigid 55-gallon steel drum, the hazard communication requirements for a non-bulk package apply, whereas, if the bags are placed inside a closed freight container, the hazard communication requirements for a bulk package would apply. In either case, the hazard communication applies to the completed package, not to the inner bags.

We also remind you that since friable asbestos is a Class 9 hazardous material, placards are not required on bulk packages for domestic transportation. However, a bulk package must be marked with the appropriate identification number on a Class 9 placard, an orange panel, or a white square-on-point display configuration (see § 172.504(f)(9)).

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

Dodd, Alice (PHMSA)

Baker
§ 173.216 (c)(2)
Packaging General
17-0068

From: INFOCNTR (PHMSA)
Sent: Wednesday, June 21, 2017 4:47 PM
To: Hazmat Interps
Subject: FW: Friable Asbestos Non-Bulk Non-Rigid Bag Packaging Interpretation Requested

Hi Shante/Alice,

Please submit this as a letter of interpretation. Mr. Denny spoke with Eamonn.

Please let me know if you have any questions.

Thanks,
Jodi

From: Denny, Chuck [mailto:Chuck.Denny@duke-energy.com]
Sent: Wednesday, June 21, 2017 3:21 PM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Cc: Denny, Chuck <Chuck.Denny@duke-energy.com>
Subject: Friable Asbestos Non-Bulk Non-Rigid Bag Packaging Interpretation Requested

PHMSA,

Based on initial conversation that I had with PHMSA regarding my requested clarifications, an interpretation is being requested on how to manage non-bulk non-rigid bags filled with friable asbestos. Is the individual non-bulk non-rigid bag filled with friable asbestos to be marked and labeled with DOT information or is the rigid outer packaging, closed freight container, motor vehicle or rail car that the bags are placed to be marked and/or labeled with DOT information?

The clarifications being requested pertain to non-bulk non-rigid bags of friable asbestos and the containers that they are placed. It is common practice to place friable asbestos into non-bulk non-rigid bags. It is also a common practice for these non-bulk non-rigid bags with an RQ quantity of friable asbestos to be marked "Asbestos, NA2212, RQ" and to be labeled with a Class 9 label due to these non-bulk non-rigid bags being considered as DOT non-bulk packages.

- Requesting clarification on whether individual non-bulk non-rigid bags of friable asbestos are considered approved DOT non-bulk packages.
- Requesting clarification on whether the individual non-bulk non-rigid bags of friable asbestos would or would not be required to be marked and labeled as a DOT hazardous material.
- Requesting clarification on whether only the package (non-bulk)/ packagings (bulk) that the friable asbestos non-bulk non-rigid bags are placed would be required to be marked and labeled according to DOT regulations.

Based on reading 49 CFR 173.216 (c)(2) and (3), the asbestos non-rigid bags are to be placed into:

- closed freight containers,
- motor vehicles,
- rail cars,
- rigid outer packagings or
- closed freight containers.

If individual non-rigid non-bulk bags with friable asbestos **are not** approved DOT non-bulk packages, it would appear that each closed freight containers, motor vehicles, rail cars, rigid outer packagings or closed freight containers would be

required to be evaluated for marking and/or labeling requirements rather than each individual non-bulk non-rigid bag of friable asbestos. Class 9 placards are not required for domestic shipments.

If individual non-bulk non-rigid bags with friable asbestos are approved DOT non-bulk packages, it would appear that each individual non-bulk non-rigid bag of friable asbestos would be required to be marked and labeled in addition to the closed freight containers, motor vehicles, rail cars, rigid outer packagings or closed freight containers being evaluated for additional DOT marking requirements. Class 9 placards are not required for domestic shipments.

Per 49 CFR 173.216 (c):

(c) Packagings for asbestos must conform to the general packaging requirements of subpart B of this part but need not conform to the requirements of part 178 of this subchapter. Asbestos must be offered for transportation and transported in—

(1) Rigid, leak-tight packagings, such as metal, plastic or fiber drums, portable tanks, hopper-type rail cars, or hopper-type motor vehicles;

(2) Bags or other non-rigid packagings in closed freight containers, motor vehicles, or rail cars that are loaded by and for the exclusive use of the consignor and unloaded by the consignee;

(3) Bags or other non-rigid packagings which are dust and sift proof must be placed in rigid outer packagings or closed freight containers.

Package = Packagings + Content

Thanks in advance for evaluating and responding to the requested clarifications.



Thanks,
Charles (Chuck) Denny, CHMM
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Environmental Programs
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